



US Army Corps
of Engineers®

Public Notice

Public Notice No. 07-53

Date: June 4, 2007

Nashville District

Application No. 200701009 Expires: July 5, 2007

Please address all comments to: Regulatory Branch, 3701 Bell
Road, Nashville, TN 37214-2660; ATTN: J. Ruben Hernandez

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Proposed Excavation, Floating Boat Dock, and Retaining
Wall at Wagner Creek Embayment, Opposite Mile 22.5R, South Fork
Holston River, in Sullivan County, Tennessee

TO ALL CONCERNED: The application described below has been
submitted for a Department of the Army Permit pursuant to **Section
10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section
404 of the Clean Water Act (33 USC 1344)**. Before a permit can be
issued, certification must be provided by the State of Tennessee,
Division of Water Pollution Control, pursuant to Section 401(a)(1)
of the CWA, that applicable water quality standards will not be
violated. The applicant has applied for the State certification
by separate application.

APPLICANT: Phil-Tenn, LLC
Misty Waters Homeowners Association
848 Hamilton Road
Blountville, Tennessee 37617

LOCATION: Wagner Creek Embayment, Opposite Mile 22.5R, South Fork
Holston River, in Sullivan County, Tennessee, Lat 36.468178°, Lon
32.397798°, Boone Dam, TN, USGS Quad Map (Exhibit A).

DESCRIPTION: The proposed work consists of the following
activities:

a. Excavation. The proposed work consists of the removal of
approximately 5,143 cubic yards (CY) of material lakeward and
landward of the normal summer pool (NSP) contour, Elevation (El.)
1384. The material would be removed from the applicant's property
and from Misty Waters Homeowners Association (MWAH) property
(adjacent lands). The removal would be conducted by use of heavy
construction equipment including backhoes, loaders, and dump
trucks. Excavation landward of the NSP contour would occur on
both the Phil-Tenn and MWAH properties with the majority of the
work occurring on the MWAH property. An average distance of 100'

from the NSP contour would be excavated there. The work would be performed in the dry during the lake's winter pool drawdown period. The bottom of the harbor would be excavated to El. 1375 and properly sloped to prevent water ponding and stagnation. The excavated material would be removed upland and placed on applicant's property above the 500-year flood elevation. For details, see Exhibits B and C.

b. Floating Boat Dock. The dock would measure 44' wide x 72' long and contain spaces for 10-12 boats. A 45' long hinged walkway would connect the dock to the shoreline. The dock would be built using composite material decking and steel framing. Flotation would consist of encased polystyrene. See Exhibit B.

c. Retaining Wall. Shore protection would be accomplished by constructing a 147' long concrete wall along the bank of the property owned by Phil-Tenn (Hamilton Cove Subdivision). The structure would have a maximum height of 11' and would consist of solid, pinned segmental block units. Approximately 160 CY of fill material would be necessary below NSP. In addition, the MWA property's shoreline would be protected with riprap. Approximately, 35 CY of riprap would be placed below NSP along 114' of shoreline. For details, see Exhibit D.

Plans of the proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

Public Notice No. 07-53

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

An Environmental Assessment will be prepared by this office prior to a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Other federal, state, and/or local approvals required for the proposed work are as follows:

a. Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. In addition to other provisions of its approval, TVA would require the applicant to own adequate property rights at this location and employ best management practices to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts.

b. Water quality certification from the State of Tennessee in accordance with Section 401(a)(1) of the Clean Water Act.

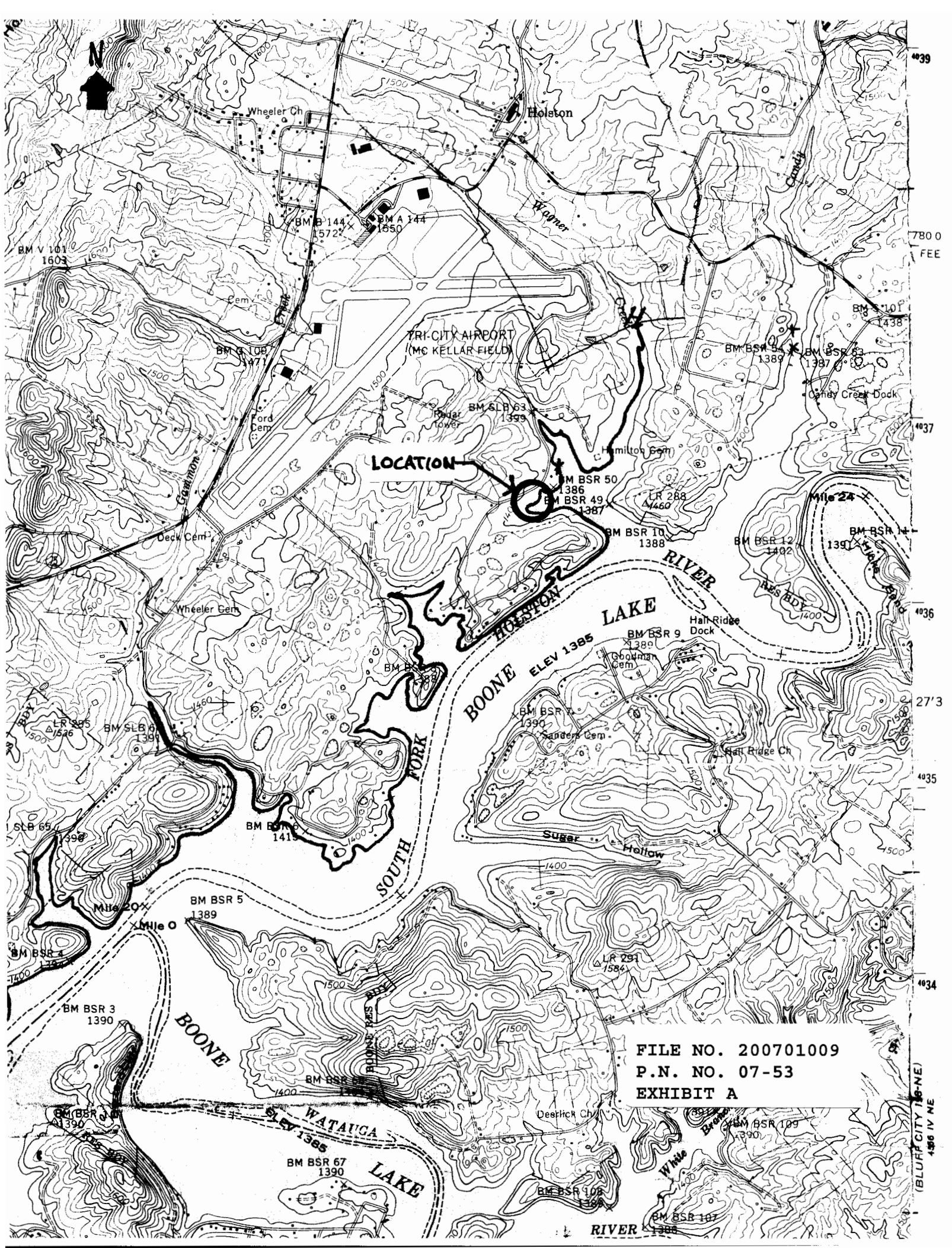
Public Notice No. 07-53

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before July 5, 2007, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: J. Ruben Hernandez, at the above address, telephone (615) 369-7519. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Ms. Konnie Lewis, Holston-Cherokee-Douglas Watershed Team, 106 Tri-Cities Business Park Drive, Gray, Tennessee 37615. Please send your comments relative to the §401 Water Quality Certification to Mr. Dan Eagar, Tennessee Division of Water Pollution Control, 7th Floor, L&C Annex, 401 Church Street Nashville, Tennessee 37243-1534, telephone (615) 532-0625.

If you received this notice by mail and wish to view all of the diagrams, visit our web site at:

<http://www.lrn.usace.army.mil/cof/notices.htm>, or contact Mr. Hernandez at the above address or phone number.



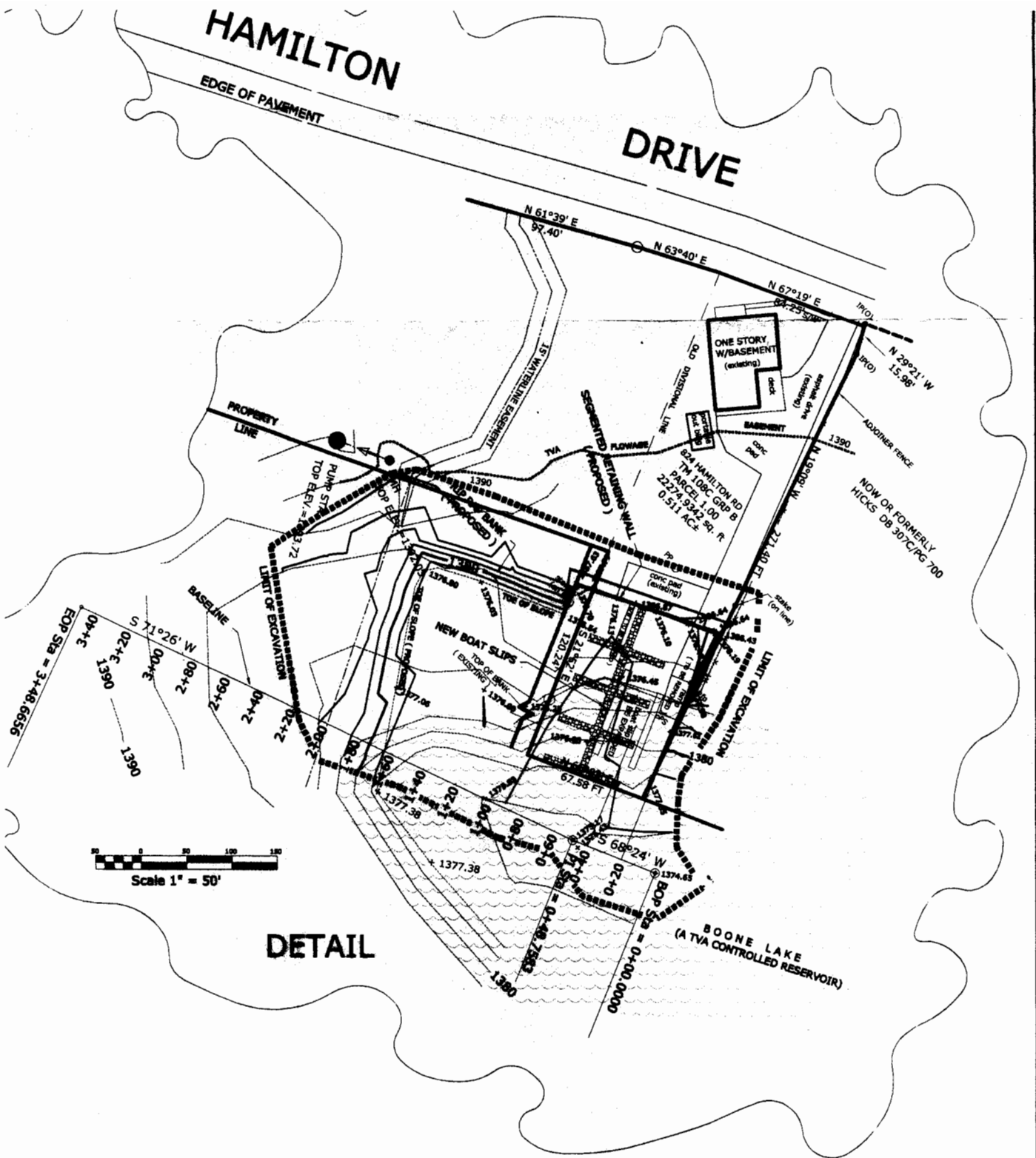
LOCATION

TRI-CITY AIRPORT
(McKELLAR FIELD)

BOONE RIVER
BOONE LAKE
SOUTH FORK
ELEV 1385

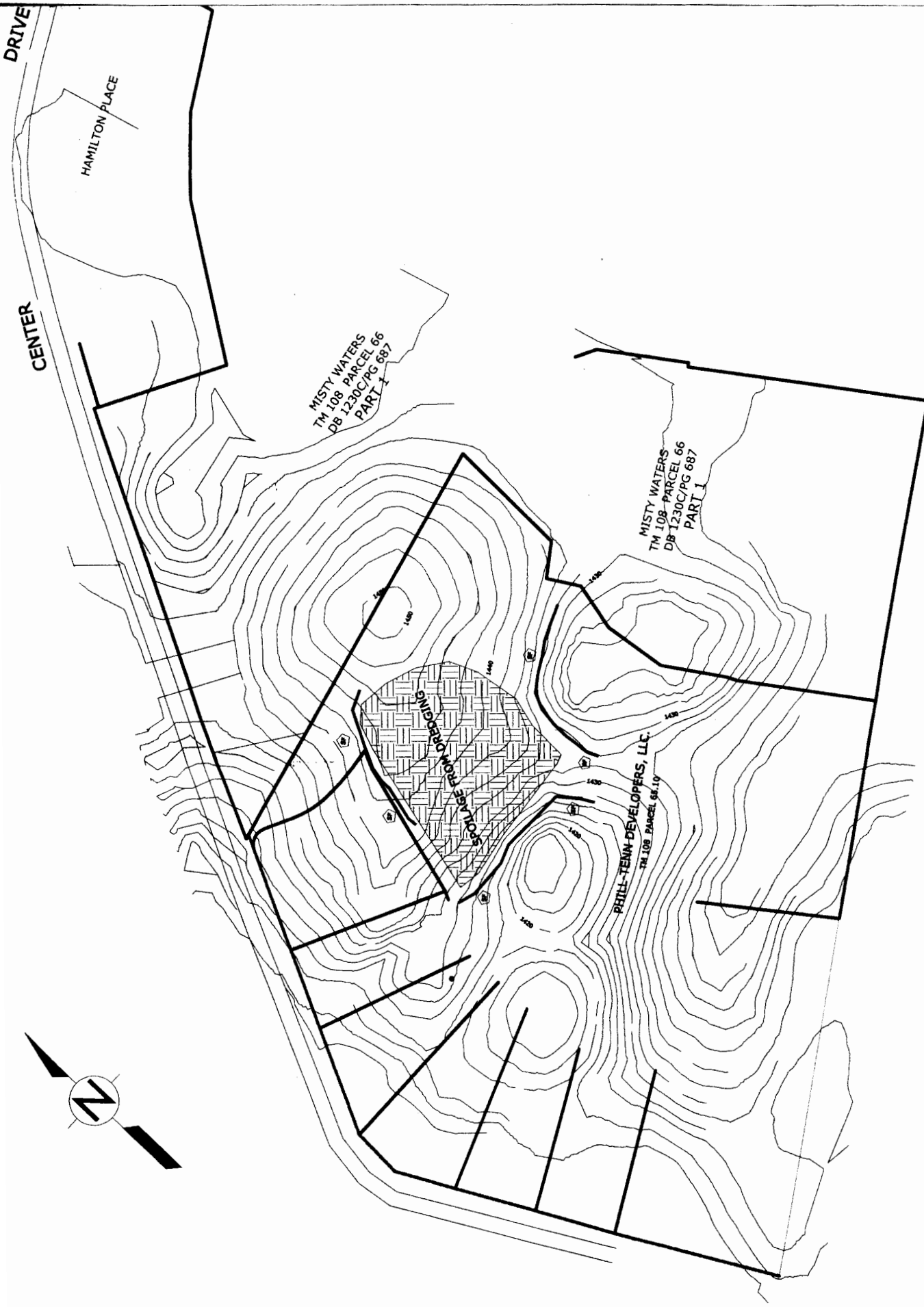
FILE NO. 200701009
P.N. NO. 07-53
EXHIBIT A

(BLUFF CITY 136-NE)
436 IV NE



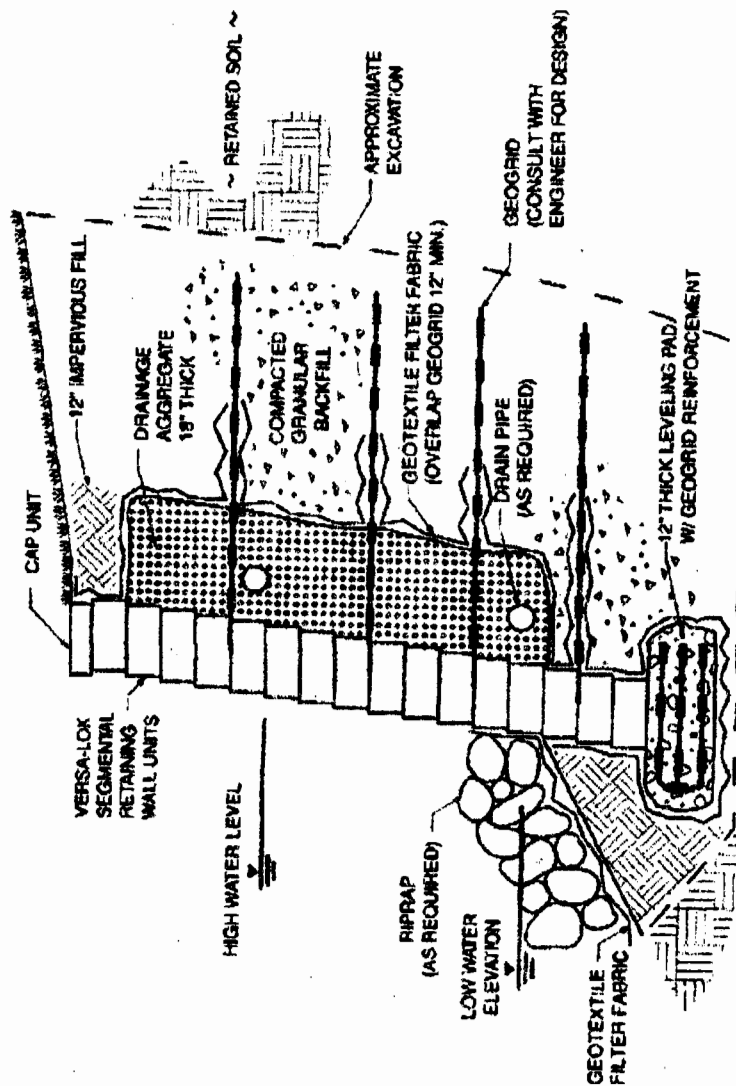
WATERS PROPERTIES	CARTER, CARR AND ASSOCIATES, SURVEYORS AND PLANNERS 5615 LONE STAR ROAD, KINGSFORT, TENNESSEE 37660 TELEPHONE: (423) 349-6920 FAX: (423) 349-5107 EMAIL: cartercarr@charter.net	SHT. NO.
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FILE NO. 200701009
 P.N. NO. 07-53
 EXHIBIT B



FILE NO. 200701009
P.N. NO. 07-53
EXHIBIT C

Shore Protection — Typical Section (scale: none)



FILE NO. 200701009
P.N. NO. 07-53
EXHIBIT D